

SECOND REGULAR SESSION

# SENATE BILL NO. 1337

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4259S.011

## AN ACT

To amend chapter 135, RSMo, by adding thereto two new sections relating to a new or expanded business tax credit.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 135, RSMo, is amended by adding thereto two new sections, to be known as sections 135.852 and 135.853, to read as follows:

**135.852. As used in sections 135.852 and 135.853, the following terms shall mean:**

(1) "Expanded business", an existing revenue-producing enterprise that has increased in physical size, production, services provided, or employees within the taxable year;

(2) "New business", a revenue-producing enterprise that is either new or has changed ownership within the taxable year;

(3) "New revenue", the sum of revenue of a business in excess of the average revenue for the previous thirty-six months or portion thereof. If such business has existed previously under other ownership, then such revenue shall be considered new revenue to the extent that such business exceeds the incremented average revenue for the three previous years revenue growth in state corporate income and sales taxes in the state as determined by the department of revenue;

(4) "Revenue", the gross income or receipts of a business;

(5) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, RSMo, and partnership or an insurance company subject to the tax imposed by chapter 148, RSMo, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916, RSMo.

**135.853. 1. Any taxpayer who has establish a new business or expands an existing business that employs eighty employees or less during the taxable year**

and has registered the business with the secretary of state, shall be allowed a tax credit, each year for three years, in an amount equal to five percent of the new state revenue produced by the new or expanded business, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or an insurance company which shall establish a new business or expands an existing business shall be allowed a credit against the tax otherwise imposed by chapter 148, RSMo, except that a business shall only be entitled to one three-year tax credit while under the same ownership. Tax credits acquired pursuant to this section may not be carried forward to subsequent tax years. A letter of intent, as provided for in subsection 2 of this section, must be filed with the department of economic development no later than ninety days following the commencement of commercial operations of the new or expanded business. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new or expanded business. No business shall receive more than five thousand dollars in tax credits in any fiscal year. The maximum number of tax credits certified in any fiscal year shall not exceed three million dollars. Should properly acquired tax credits exceed three million dollars in a fiscal year, the taxpayer claiming such credit shall be entitled to claim the credit in the next fiscal year in which the maximum cap has not yet been met. The director of the department of revenue shall permit such carry forward in the order in which any such credits were claimed. The provisions of this section shall have effect on all initial applications filed on or after January 1, 2004. The directors of the departments of economic development and revenue shall promulgate rules in accordance with the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

2. In order to be eligible for the tax credits specified in this section, a taxpayer must submit a letter of intent to the director of the department of economic development. The letter of intent shall be completed on a form that shall be prepared by the department. It need not contain an estimate of the amounts of the tax credits for which the taxpayer may become eligible. The director shall

acknowledge receipt of a properly completed letter of intent and return such to the taxpayer within fifteen days of its receipt. If such letter of intent is incomplete, the director shall immediately return such letter to the taxpayer stating the letter's inadequacies.

3. For the purposes of the credit described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, this credit shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership.

This credit shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

4. The number of new or expanded business employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year if the new or expanded business is in operation for less than the entire taxable year, the number of new or expanded business employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new or expanded business was in operation by the number of full calendar months during such period.

Bill

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